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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,104	12/29/2003	Rutvik Doshi	019287-0319598	9622
909 7590 01/23/2008 PILLSBURY WINTHROP SHAW PITTMAN, LLP P.O. BOX 10500 MCLEAN, VA 22102			EXAMINER RAYYAN, SUSAN F	
			ART UNIT 2167	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/750,104	<b>Applicant(s)</b> DOSHI, RUTVIK	
	<b>Examiner</b> Susan F. Rayyan	<b>Art Unit</b> 2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 39-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-68 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.
2. Applicant's submission filed on October 24, 2008 has been entered.

**DETAILED ACTION**

3. Claims 1-38 are canceled.
4. Claims 39-68 are currently pending.

***Claim Objections***

5. Claim 44 objected to because of the following informalities: no period at end of claim. Appropriate correction is required.

***Specification***

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: computer readable medium.

***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter.

Claims 39-48, 59-68 are directed to non-statutory subject matter.

Claims 39-48 are software per se and therefore non-statutory subject matter. The system claims include an application server described in the US Publication 2005/0010578 paragraph [0013] as In one embodiment , application server includes software that that rumens between web-browser based applications and applications and paragraph [0014] as application server may include one or more applications. The application server is software. The analyzer component is described at paragraph [0022] as any suitable hardware or software. The analyzer is software. The elements of the system claims are software per se and therefore the claims are directed to non-statutory subject matter.

Regarding claims 59-68, the applicant has not provided antecedent bases for the computer readable medium in the specification. One of ordinary skill in the art at the time the invention was made would interpret computer readable medium as a signal (see US 2006/0116507, paragraph [0016], as "data structures and message structures may be stored or transmitted via a computer readable storage medium, such as a signal"). The claims are directed to non-statutory subject matter.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6816874 issued to Curt Lee Cotner et al ("Cotner") and US Publication 2002/0016814 issued to Bernhard Convent et al ("Convent") and US 6,901,582 issued to Guy Harrison ("Harrison").

As per claim 39, Cotner teaches:

at least one application executing at least one process that generates one or more database calls (column 2, lines 9-13, a call from an application program); and

an analyzer component operable to:

monitor substantially continuously a first set of one or more parameters associated with the at least one process (column 5, lines 28-31, parameters include parameter includes CPU time, column 5, lines 5-10, performance monitor executes on the same thread as the application program);

monitor substantially continuously a second set of one or more parameters associated with the one or more database calls (column 5, lines 7-10, performance monitor performs operations to access performance data according to parameters included with the call, column 5, lines 25-26, input and output parameters);

identify the at least one process that generated the one or more database calls by correlating the first set of one or more parameters with the second set of one or more parameters (column 5, lines 53-57, returned data contain data on the number of get pages,

number of reads, number of writes, act that occurred during the execution of the SQL statements between calls, column 6, lines 60-67, CPU time and threads).

Cotner does not explicitly teach **an application server**. Convent does teach an application server (see Figure 1, ref.no.10, application server). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Cotner with **an application server** to efficiently access applications. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Cotner with an application server to efficiently access applications.

Cotner and Convent do not explicitly teach **display to a client the identified at least one process that generated the one or more database calls**. Harrison does teach this at column 1, lines 40-43 to quickly and efficiently identify and locate potential or actual problem areas in application configuration. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Cotner and Convent with **display to a client the identified at least one process that generated the one or more database** calls to quickly and efficiently identify and locate potential or actual problem areas in application configuration as described by Harrison (column 6, lines 25-30).

As per claim 40, same as claim arguments above and Cotner teaches;

further comprising an interceptor component operable to:  
intercept the one or more database calls generated by the one or more processes and communicate the second set of one or more parameters associated with the intercepted one or more database calls to the analyzer component (column 5, lines 7-10, performance monitor performs operations to access performance data according to parameters

included with the call, column 5, lines 25-26, input and output parameters).

As per claim 41 same as claim arguments above and Cotner teaches;

intercept the at least one process and communicate the first set of one or more parameters associated with the intercepted at least one process to the analyzer component (column 6, lines 42-55, performance monitor receives input and output parameters on the same thread on which call was made and determined address of the calling thread and return performance data).

As per claim 42 same as claim arguments above and Convent teaches:

wherein the at least one process comprises an object-oriented method and the insider component is operable to communicate the second set of one or more parameters for the object-oriented method in a method call tree to the analyzer component (paragraph26, Java).

As per claim 43 same as claim arguments above and Cotner teaches;

wherein the one or more database calls comprise one or more SQL calls and the second set of one or more parameters comprise: a SQL statement of the one or more SQL calls, a SQL execution time of the one or more SQL calls, one or more SQL exceptions of the one or more SQL calls, and a timestamp and a thread of execution for the one or more SQL calls (column 5, SQL application calls performance monitor before and after SQL statements to obtain beginning and ending time to execute the SQL

statements , receive call including input/output parameters).

As per claim 44 same as claim arguments above and Cotner teaches:

wherein the first set of one or more parameters comprise a timestamp and a thread of execution (column 5, lines 30-50, parameters CPU time, column 6, lines 50-65, determine address of calling thread).

As per claim 45 same as claim arguments above and Cotner teaches;

wherein the analyzer component when correlating the first set of one or more parameters with the second set of one or more parameters is further operable to: compare the timestamp and the thread of execution of the first set of one or more parameters to a corresponding timestamp and the thread of execution of the second set of one or more parameters (column 6, lines 58-67, process a call to determine performance data such as CPU time , thread executing , read/writes).

As per claim 46 same as claim arguments above and Cotner teaches;

wherein the analyzer component substantially continuously provides first identifiers of the one or more database calls and second identifiers of the identified at least one process that generated the one or more database calls to the client in substantially real time (column 8, lines 20-26, performance data for specific thread is returned when executing the SQL application).



As per claim 47 same as claim arguments above and Cotner teaches;  
wherein the analyzer component is further operable to:  
collect the second set of one or more parameters (column 8, lines 20-28, returned performance data maybe time the tread began executing between two calls).

Cotner and Convent do not explicitly teach display an alert notification to the client if at least one of the second set of one or more parameters exceeds a predetermined threshold value. Harrison does teach this limitation at column 2, lines 63 to column 3, line 7, compare performance parameters to a threshold and alert user). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Cotner and Convent with display an alert notification to the client if at least one of the second set of one or more parameters exceeds a predetermined threshold value to quickly and efficiently identify and locate potential or actual problem areas in application configuration as described by Harrison (column 6, lines 25-30).

As per claim 48, same as claim arguments above and Harrison teaches:  
wherein the analyzer component is further operable to display a management console to the client, wherein the management console presents a view of the provided information (Figure 1d, console).

9. Claims 49-68 are rejected based on the same rationale as claims 39-48.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### Contact Information

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Rayyan whose telephone number is (571) 272-1675. The examiner can normally be reached M-F: 8am - 4:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on (571) 272-7079. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Susan Rayyan

January 22, 2008



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